



JC03 Rec'd PCT/PTO 03 OCT 2005

PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Nieberding (petitioner)

Petition Serial No.: P-110,646

Attorney Docket No.: 006593-2070

Petition Examiner: Ian J. Lobo

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO DECISION ON REQUEST UNDER 37 CFR 5.25**

In response to the decision dated August 2, 2005 (copy attached as Exhibit 1), please consider the Declaration of Ewald O. Vetter (attached as Exhibit 2). Mr. Vetter is the German patent attorney who actually filed the German applications in question. This declaration satisfies the requirements of 37 CFR 5.25(a)(3)(iii). Accordingly, the Petition is now in condition to be granted.

It is also noted that the actual petitioner in this case is Premark FEG L.L.C., the assignee of the patent rights at issue. The Petition examiner should contact the undersigned attorney with any questions regarding this submission.

Respectfully submitted:

Date: 9/30/2005

By: Michael J. Nieberding  
Michael J. Nieberding  
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Approved for use through 08/30/2003. OMB 0651-0031

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Application Number <b>Petition Serial No.</b>	P-110,646
Filing Date	June 6, 2005
First Named Inventor	
Art Unit	
Examiner Name	Ian J. Lobo
Attorney Docket Number	006593-2070

Total Number of Pages in This Submission

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Response To Decision on Petition</b>
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	--Return Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	--Exhibit 1-Decision on Request
<input type="checkbox"/> Certified Copy of Priority Document(s)		--Exhibit 2-Declaration
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

**Remarks**

The Commissioner is hereby authorized to charge any additional fees required (including the fee for any extension of time), or to credit any overpayment, to Deposit Acct No.: 20-0809.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Thompson Hine LLP 2000 Courthouse Plaza N.E., 10 West Second Street Dayton, Ohio 45402-1758
Signature	<i>Michael J. Nieberding</i>
Date	9/30/2005

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Michael J. Nieberding, Registration No. 39,316		
Signature	<i>Michael J. Nieberding</i>	Date	9/30/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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